



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: TLC Systems--Reconsideration

File: B-225871.2

Date: September 14, 1987

DIGEST

1. The receipt of only one offer in response to a solicitation does not prove that the specifications were unduly restrictive of competition where the record shows that four firms were capable of responding to the solicitation.
2. Protest that contract awardee will not be able to provide equipment in accordance with the solicitation's specifications is a matter of responsibility, the affirmative determination of which the General Accounting Office does not review absent a showing that it may have been fraudulently made or that definitive responsibility criteria set out in the solicitation were not met.
3. Whether a contract awardee ultimately provides equipment meeting specifications is a matter of contract administration, where the General Accounting Office does not consider under its bid protest function.

DECISION

TLC Systems requests reconsideration of our decision in TLC Systems, B-225871, Mar. 17, 1987, 87-1 C.P.D. ¶ 297, in which we denied the firm's protest of allegedly restrictive specifications in request for proposals (RFP) No. F02600-86-R-0032, issued by the Department of the Air Force for the repair of a fire alarm panel and associated transmitters, and the installation of a digital radio-type fire alarm system. We also denied TLC's protest that sealed bidding instead of negotiation procedures should have been used, and that the procurement should have been set aside for small business concerns.

We deny the reconsideration request.

We denied the protest of the specifications because the agency found all solicitation requirements to be proper and necessary, the solicitation appeared proper on its face, and

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the protester refused to specify the portions of the solicitation to which it objected. Additionally, we found no basis for objecting to the Air Force's determination that the procurement involved technical considerations requiring discussions, or that there was no reasonable expectation that offers from at least two responsible small business concerns would be received, so that a small business set-aside was not appropriate.

TLC, in its reconsideration request, maintains that the fact that there was only one offeror clearly shows that the solicitation was restrictive. TLC also requests reconsideration on the basis of its contention that the contract awardee under the solicitation cannot meet specification requirements.

With regard to the sole offer, we have recognized that a competitive procurement that results in only one response is not objectionable if it can be demonstrated that firms other than the firm responding could have met the requirements. Treadway Inn--Request for Reconsideration, B-221559.2, July 31, 1986, 65 Comp. Gen. ___, 86-2 C.P.D. ¶ 130. In our decision, we noted that, contrary to TLC's contention that no company could meet the specifications, the Air Force market survey determined that four manufacturers were capable of meeting the specifications. The fact that only one firm ultimately chose to enter the competition therefore does not provide a basis upon which to reverse our prior decision.

The offeror's ability to provide the required equipment in accordance with the solicitation's specifications is a matter of the firm's responsibility, CORE International, Inc., B-225640, Jan. 21, 1987, 87-1 C.P.D. ¶ 78, which the procuring agency must determine prior to contract award. See Federal Acquisition Regulation, 48 C.F.R. § 9.103(b) (1986). Our Office does not review a protest of an affirmative determination of responsibility absent a showing that it may have been fraudulently made or that definitive responsibility criteria set out in the solicitation were not met. 4 C.F.R. § 21.3(f)(5) (1987). Neither exception applies here.

Whether the awardee actually provides equipment meeting specifications is a matter of contract administration, which is not a matter that we consider under our bid protest function. Shihadeh Carpets and Interface Flooring Systems, Inc., B-225489, Mar. 17, 1987, 87-1 C.P.D. ¶ 295.

TLC's request for reconsideration is denied. 4 C.F.R.
§ 21.12(a).

for *Hyman* *Efor*
Harry R. Van Cleve
General Counsel